

#### **IV. REMARKS**

Claims 1-8, 10-20 are pending in this application. By this amendment, claims 1, 4, 8 and 15 have been amended and claim 9 has been cancelled. Applicants do not acquiesce in the correctness of the rejection and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Furthermore, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Initially, Applicants thank the Examiner and the Examiner's supervisor for the telephone interview of November 14, 2006 with their representative, John LaBatt, Reg. No. 48,301. During the interview, the independent claims were discussed with respect to their corresponding prior art rejections. No exhibits were presented and no agreement was reached. The substance of the interview is incorporated in the following remarks.

#### **A. OBJECTIONS TO THE DRAWINGS**

In the Office Action, the Drawings are objected to because the labels on FIGS. 7 and 8 have allegedly been reversed. Applicants submit that FIGS. 7-8 are correct, although they were incorrectly listed in the Brief Description of the Drawings. Applicants have amended paragraphs 0021 and 0022 to correct the error and respectfully request withdrawal of the objection.

#### **B. OBJECTIONS TO THE SPECIFICATION**

In the Office Action, the disclosure is objected to because paragraphs 0008 and 0024 are allegedly unclear. Specifically, the Office asserts that "it is not clear how the instant pocket is

10/776,071 Page 8 of 13

‘configured to hold an individual.’” Office Action, p. 3. In response, Applicants submit that it is not the pocket itself that is configured to hold an individual. Instead, when the bottom opening pocket of the present invention is combined with a wheelchair, for example, it is the wheelchair apparatus that is configured to hold an individual. Applicants submit that each of the terms “apparatus” and “bottom opening pocket” recited in paragraphs 0008 and 0024 are clear. Accordingly, Applicants respectfully request withdrawal of the objection.

### **C. CLAIM OBJECTIONS**

In the Office Action, claim 15 is objected to for allegedly twice claiming “means for holding.” Office Action, p. 3. However, in response, Applicants submit that the use of “means for holding” is clear and definite. The second line of claim 15 recites “means for holding the apparatus on the torso,” while the last two lines properly list “the means for holding” as one of the possible attachment locations. Accordingly, Applicants submit that claim 15 does not contain any informalities and respectfully request withdrawal of the objection.

### **D. REJECTION OF THE CLAIMS UNDER 35 U.S.C. 102(b)**

In the Office Action, claims 1-3 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Ellis (U.S. Pat. No. 3,105,359). As discussed in the telephone interview, Applicants assert that the Office fails to show that Ellis discloses each and every feature of the claimed invention. For example, with respect to independent claim 1, the Office fails to show that Ellis discloses, *inter alia*, means for opening the flap away from the torso, wherein the flap detaches from at least one of: the inner side, the means for holding, or the means for attaching, and wherein the flap extends from the outer side during opening. Interpreting Ellis only for the

10/776,071 Page 9 of 13

purposes of this response, Applicants submit that Ellis teaches a pocket 28 with a flap that detaches (snaps 34) from an outer side of the pocket in a direction towards the individual. (See FIGS. 1-2) As clearly shown in FIGS. 1-2, each flap is permanently attached to the inner side of the pocket located adjacent diving vest 10. Accordingly, each time the flap is detached in Ellis, it is detached from the outer face of the outer portion of the pocket and folded down towards the individual. In sharp contrast, in the claimed invention, the flap detaches from the inner side and extends away from the individual during opening. As shown in FIG. 2 of the claimed invention, bottom opening pocket 12 includes means for opening the flap away from the torso, wherein the flap extends from the outer side during opening. Ellis fails to disclose this claimed feature. Accordingly, Applicants submit that Ellis fails to disclose each and every element of claim 1 and respectfully request withdrawal of the rejection.

In the Office Action, claims 1 and 6 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Lewis (U.S. Pat. No. 5,060,314). As discussed in the telephone interview, Applicants assert that the Office fails to show that Lewis discloses each and every feature of the claimed invention. For example, with respect to independent claim 1, the Office fails to show that Lewis discloses, *inter alia*, means for opening the flap away from the torso, wherein the flap detaches from at least one of: the inner side, the means for holding, or the means for attaching, and wherein the flap extends from the outer side during opening. Interpreting Lewis only for the purposes of this response, Applicants submit that Lewis teaches a pocket 74 with a flap 74b that detaches from an outer side of the pocket in a direction towards the individual. Each flap is permanently attached to the inner side of pocket 74. In sharp contrast, in the claimed invention, the flap detaches from the inner side and extends away from the individual during opening. As shown in FIG. 2 of the claimed invention, bottom opening pocket 12 includes means for opening

10/776,071 Page 10 of 13

the flap away from the torso, wherein the flap extends from the outer side during opening. Ellis fails to disclose this claimed feature. Accordingly, Applicants submit that Lewis fails to disclose each and every element of claim 1 and respectfully request withdrawal of the rejection.

#### **E. REJECTION OF CLAIMS UNDER 35 U.S.C. 103(a)**

In the Office Action, claims 4, 15 and 20 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ellis, in view of Young (U.S. Pat. No. 6,015,072). With respect to independent claim 15, Applicants herein incorporate the arguments made above with respect to independent claim 1. Furthermore, Applicants submit that the combination with Young, even if, *arguendo*, proper, fails to cure the deficiency because Young also fails to disclose, *inter alia*, a flap for covering the opening, wherein the flap detaches from at least one of: an inner side adjacent the means for holding, the means for holding, or the means for attaching, and wherein the flap extends from the outer side during opening. As a result, Applicants respectfully submit that the Office has failed to state a *prima facie* case of obviousness with respect to independent claim 15 and respectfully request withdrawal of the rejection.

In the Office Action, claims 5, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ellis, in view of Kearn (U.S. Pat. No. 6,193,118). With respect to independent claim 8, Applicants herein incorporate the arguments made above with respect to independent claim 1. Furthermore, Applicants submit that the combination with Kearn, even if, *arguendo*, proper, fails to cure the deficiency because Kearn also fails to disclose, *inter alia*, a flap for releasably covering the opening, wherein the flap detaches from at least one of: an inner side of the pocket, the holding system, or the attaching system, and wherein the flap extends from the outer side during opening. As a result, Applicants respectfully submit that the Office

10/776,071 Page 11 of 13

has failed to state a *prima facie* case of obviousness with respect to independent claim 8 and respectfully request withdrawal of the rejection.

With respect to all dependent claims, Applicants herein incorporate the arguments presented above with respect to the corresponding independent claims, from which each of the claims depend. The dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

/Darrell L. Pogue/

Darrell L. Pogue

Reg. No.: 57,878

Date: November 28, 2006

Hoffman, Warnick & D'Alessandro LLC  
75 State Street 14<sup>th</sup> Floor  
Albany, New York 12207  
(518) 449-0044  
(518) 449-0047 (fax)